

# Transport Agencies Withdraw Proposed Sleep Apnea Rules

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On August 8, 2017, the Federal Motor Carrier Safety Administration (FMCSA) and Federal Railroad Administration (FRA) [withdrew a rulemaking effort](#) that would have required some truck drivers and rail engineers to be screened for obstructive sleep apnea (OSA). The agencies stated that, while OSA remains a safety concern, “current safety programs and FRA’s rulemaking addressing fatigue risk management are the appropriate avenues to address OSA.” Safety advocates question whether current efforts are adequate.

OSA is a safety concern for the federal Department of Transportation (DOT) because it is associated with a [significant increase](#) in the likelihood of being involved in a crash. [One study](#) found that fatigued driving was a factor in 13% of large truck crashes. OSA is the most common medical cause of excessive daytime sleepiness or fatigue. The Federal Aviation Administration requires that commercial pilots meeting certain criteria be screened for OSA by medical examiners, and the rulemaking was considering similar requirements for truckers and railroad engineers.

## Risks of Obstructive Sleep Apnea

OSA is a medical condition that prevents a person from getting sound sleep. The person experiences repeated blockages of breathing while sleeping; the lack of oxygen rouses the individual enough to resume breathing, but often the sleeping individual is not conscious of this and thus is unaware of having OSA. There are degrees of OSA, ranging from mild (5 to 15 waking events per hour) to severe (30 or more events per hour).

In addition to its impact on operator drowsiness, OSA is associated with an increased risk of health problems, including heart disease and stroke. Risk factors for OSA include obesity, a large neck, a small throat, a family history of OSA, being male, and being older. While obesity is a significant factor (studies have found that around 80% of people with a Body Mass Index of 35 or greater have OSA), 25% or more of commercial drivers with OSA are not overweight.

The National Transportation Safety Board (NTSB) includes “Reduce fatigue-related accidents” and “Require medical fitness for duty” as two of its 10 [most wanted improvements](#) in transportation safety. In the descriptions of both of these recommendations, NTSB specifically refers to OSA as a concern.

## Federal Regulation

Federal regulations consider commercial drivers with OSA medically unfit unless the condition is being treated. Drivers are required to be certified as medically fit every two years. Whether a commercial driver must be tested for OSA is determined by the driver’s medical examiner; the proposed rulemaking would

have considered requiring that workers meeting certain criteria be tested. The primary form of treatment is a positive airway pressure (PAP) device, including a mask, worn while sleeping; its effectiveness depends on the patient's compliance with the treatment regime.

In 2012, FMCSA's Motor Carrier Safety Advisory Committee and Medical Review Board [recommended that medical examiners routinely test commercial drivers with a Body Mass Index of 35 or greater](#) for sleep apnea. In October 2013 Congress [passed legislation barring DOT](#) from requiring commercial drivers to be screened for sleep disorders, including sleep apnea, except through a formal rulemaking.

In the notice withdrawing the rulemaking, FMCSA said it would consider updating its information bulletin to medical examiners regarding how the physical qualifications standard applies to drivers who may have OSA. FMCSA's Medical Review Board has expressed concern that many medical examiners have little awareness of OSA and its impact on commercial driver performance and safety. FMCSA will continue to recommend that drivers and their employers use the North American Fatigue Management Program, a voluntary, interactive web-based program intended to make drivers and carriers aware of the factors contributing to fatigue and its impact on performance.

FRA issued safety advisories in 2004 and 2016 encouraging railroads to screen workers for OSA. Unlike FMCSA, FRA regulations do not require railroad engineers or conductors to report their medical histories, describe their use of medications, or undergo any other physical examination, additional testing, or review of their health. Railroads are required to have a fatigue management plan as part of their risk reduction or system safety program; this requirement does not specify OSA as a concern. The August 2017 withdrawal notice says that "FRA believes railroads will consider OSA when addressing medical conditions that affect alertness" under these programs.

## Adequacy of Current Safety Programs in the Private Sector

Safety advocates question the adequacy of current safety programs. About [15% to 30% of commercial drivers are estimated to have OSA](#); at one railroad, [18% of engineers were found to have OSA](#). NTSB, which investigates a tiny sample of highway and rail crashes each year, [cited OSA as the probable cause](#) of 10 highway and rail crashes investigated over the past 17 years.

In May 2016 the American Transportation Research Institute [surveyed](#) a random sample of commercial drivers regarding OSA. Asked whether their employers had a policy concerning sleep apnea, over half responded that they did not know. Even when policies exist, [transportation workers have an economic incentive not to report symptoms of OSA](#), since it may cost them money for testing and treatment and time not working, and may cost them their job.

A [study](#) of a trucking firm with an employer-mandated program to screen, diagnose and monitor OSA treatment found that 42% of drivers with OSA fully adhered to the treatment method (PAP), 35% partially complied, and 22% did not comply with treatment. The nonadherent group had a crash rate five times higher than the control group. Drivers who did not adhere to treatment were discharged, but little prevented them from concealing their diagnoses and signing on with other carriers that do not have OSA programs.

In September 2017 NTSB [published its preliminary findings](#) on the September 29, 2016, crash of a New Jersey Transit (NJT) commuter train that killed one person and injured around 110 people. The train engineer, in a post-accident examination, [was found to have severe OSA](#).

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